

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

SHEET METAL WORKERS' UNION LOCAL)
#441 HEALTH and WELFARE FUND and)
ROBERT GORAM, ROBERT PAYNE,)
STANLEY SMALL, JAMES GEIGER, SR.,)
JOSEPH VALLEE, and LARRY PIRKLE, in)
their official capacities as trustees of the)
Plan, SHEET METAL WORKERS)
INTERNATIONAL ASSOCIATION LOCAL)
441 SUPPLEMENTAL PENSION PLAN,)
ROBERT GORAM, JOSEPH VALLEE and)
ROBERT PAYNE, and JAMES GEIGER, in)
their official capacity as trustees of the Plan;)
SHEET METAL WORKERS LOCAL 441 JOINT)
APPRENTICESHIP and TRAINING FUND;)
ROBERT GORAM, ROBERT PAYNE,)
STANLEY SMALL, JAMES GEIGER, SR.,)
JOSEPH VALLEE, and WILLIAM DELOCHE)
and SHEET METAL WORKERS)
INTERNATIONAL ASSOCIATION, LOCAL)
441,)
)
Plaintiffs,)
)
vs.)
)
PENETEC CORPORATION, INC.,)
)
Defendant.)

CIVIL ACTION NO. 05-0229-P-B

DEFAULT JUDGMENT

In accordance with the court's Order entered this date, it is ORDERED, ADJUDGED, and
DECREED that Default Judgment pursuant to Rule 55(b)(2), of the Federal Rules of Civil Procedure,

be hereby ENTERED in favor of plaintiffs and against Penetec, in the amount of \$96,681.64.

The following is a breakdown of the amount of the Default Judgment:

1) The amount owing to the Welfare Fund and Pension Plan \$54,712.39 (the amount of the Note \$40,454.64 + \$14,257.75 in interest = \$54,712.39) as of April 14, 2005, the date of filing this declaratory judgment action, plus interest pursuant to the Agreement, calculated at 12% per annum from April 15, 2005, through the date of Judgement (a period of 190 days) in the amount of \$2,527.00 ($\$40,454.64 \times 12\% \text{ per annum} = \$4,854.56 \div 365 \text{ days} = \$13.30 \text{ per day} \times 190 \text{ days} = \$2,527.00$)), and liquidated damages pursuant to the Agreement, in an amount equal to the total interest due on the unpaid Employer Contribution, \$16,784.75 ($\$14,257.75 + \$2,527.00 = \$16,784.75$), totaling \$74,024.14 ($\$54,712.39 + \$2,527.00 \text{ in interest} + \$16,784.75 \text{ in liquidated damages} = \$74,024.14$);

2) the amount owing on the working assessment deductions as of April 14, 2005, the date of filing this declaratory judgment action - \$13,040.00, plus interest pursuant to the Agreement, calculated at 12% per annum from April 15, 2005, through the date of Judgement in the amount of \$815.10 ($\$13,040.00 \times 12\% \text{ per annum} = \$1,564.80 \div 365 \text{ days} = \$4.29 \text{ per day} \times 190 \text{ days} = \815.10)), and liquidated damages pursuant to the Agreement, in an amount equal to 20% of the total unpaid Employer Contribution, \$2,608.00 ($\$13,040.00 \times 20\% = \$2,608.00$), totaling \$16,463.10 ($\$13,040.00 + \$815.10 \text{ in interest} + \$2,608.00 \text{ in liquidated damages} = \$16,463.10$);

3) the amount owing to the Training Fund as of April 14, 2005, the date of filing this declaratory judgment action - \$3,328.00, plus interest pursuant to the Agreement, calculated at 12% per annum from April 15, 2005, through the date of Judgement in the amount of \$207.10 ($\$3,328.00 \times 12\% \text{ per annum} = \$399.36 \div 365 \text{ days} = \$1.09 \text{ per day} \times 190 \text{ days} = \207.10)), and liquidated damages

pursuant to the Agreement, in an amount equal to 20% of the total unpaid Employer Contribution, \$665.60 ($\$3,328.00 \times 20\% = \665.60), totaling \$4,200.70 ($\$3,328.00 + \207.10 in interest + \$665.60 in liquidated damages = \$4,200.70); and

4) attorney's fees in the amount of \$1,481.25 (11.85 hrs. x. \$125.00 per hr. = \$1,481.25), plus costs in the amount of \$512.45, for a total of \$1,993.70 ($\$1,481.25 + \$512.45 = \$1,993.70$), resulting in

the total amount in default is \$96,681.64 (\$74,024.14 to the Welfare Fund and Pension Plan + \$16,463.10 on the working assessment deductions + \$4,200.70 to the Training Fund + \$1,993.70 in attorney's fees and costs = \$ 96,681.64).

DONE this 21st day of October, 2005.

S/Virgil Pittman
SENIOR UNITED STATES DISTRICT JUDGE